THE HISTORICAL DEVELOPMENT OF CODE PLEADING IN AMERICA AND ENGLAND. By Charles M. Hepburn, of the Cincinnati Bar. Cincinnati: W. H. Anderson & Co. 1897. pp. xvi, 318.

Mr. Hepburn is an ardent advocate of the merits of code pleading, or this book would not have been written. His arraignment of special pleading is very severe; but that the conclusions he reaches are based on a careful historical study of the matter is clear. The inadequacy of common law pleading is attributed to the fact that development was entirely arrested in its early stages, while the substantive law continued its wonderful growth unchecked. This produced an "inveterate incongruity between our procedure and our substantive rights." This it was that gave force to the movement in this century for a reform of procedure. It is interesting, however, to notice a similarity between the course of code pleading and of common law pleading. A failure to act according to the spirit of the codes has produced a system that is now exceedingly technical in many respects, due largely to a conservative following of forms, while Mr. Hepburn himself points to a case of about 1292 as a model of the simplicity and directness that code pleading should attain: "One Alice brought a writ of debt against B., for that she gave him twenty pounds worth of chattels by reason that he was to marry her; and he did not marry her."

The adoption of the reform met the greatest opposition in the conservative spirit of the profession. New York's code was the first, and it became the model for the others that have followed in this country. The commissioners who drafted it did their work in five months, and the legislature quickly enacted it into law, to give the reform a firm standing before the opposition could effectively organize for its defeat. Such a code could not be perfect, even if perfection is ever to be expected. Though the necessary amendments have been numerous, they have not been in regard to matters of the greatest importance; and Mr. Hepburn considers the success of the code to have been greater than could fairly be looked for.

The development of the reformed procedure in this country is treated in its three phases, of the development in the *code states*, twenty-seven in all, in the *quasi-code states*, and in the *federal courts*. Then there is the very different development that has taken place in the British Empire. A knowledge of the latter cannot but prove instructive, and probably but little is known as to it on this side of the water. For instance, see the provisions to secure expedition and brevity (p. 211 *et seq.*), which are apparently much more effective than anything that has been devised here.

The statement that code pleading is as much a science as common law pleading is undoubtedly true. The pleader must understand the essentials of his case as thoroughly as ever, or he cannot hope to frame a perspicuous complaint. But this has not been the practice. Attorneys have found it more convenient to intrench themselves behind really immaterial allegations, which *might* help them out, than to give careful study to a case; and so the objects of reform have been largely defeated. If, then, code pleading has come to stay, (and this can hardly be doubted, for see page 131 as to the movement for reform in New York,) every professional man should understand the questions involved in a system of code pleading, or he cannot co-operate in and appreciate the work of reforming present systems. To take one out of the narrow path of prac-

tice under a particular code, and give an idea of the importance of this branch of the law as a science, Mr. Hepburn's book will be found an instructive and interesting guide. E. S.

HANDBOOK OF THE LAW OF PARTNERSHIP. By William George. St. Paul: West Publishing Co. 1897. (Hornbook Series.) pp. xi, 606.

Text-books have been written in the words of the courts, but it has remained for this author to produce a book largely in the words of another writer on the same subject. In his Preface he says: "In gathering material for the text, more or less aid has been received from the pages of Story, Collyer, Parsons, and others, while very copious use has been made of the great work of Lord Lindley, the natural resort for all investigators into this branch of the law." This is no more than an acknowledgment of the indebtedness every member of the profession is under to those who have gone ahead of him. In a cursory review of the book, however, such extensive and systematic plagiarism was discovered in the first sixty-five pages that it was thought unnecessary to go further. The worst instance noted is that on pages 17, 18, 19, and 20, the section on Consideration. The text is taken verbatim from Lord Justice Lindley's book. (See Lindley on Partnership, 5th Eng. ed., p. 63 *et seq.*) One of the six paragraphs under this topic is put in quotation marks and credit is given. Throughout the other five, figures referring to the notes are scattered. These notes are references to pages of Lindley on Partnership, put in just as a case would be cited to support a proposition of the author in the text. Again, under the Statute of Frauds, the text, beginning with the second sentence on page 21 and ending with the next to the last sentence on page 22, is taken bodily. (See Lindley on Partnership, 5th Eng. ed., p. 80 *et seq.*) In a note, referred to at the end of this passage, it is stated that "Lindley says that this is certainly going a long way towards repealing the Statute of Frauds." These exact words are in Lindley's work, just after the passage inserted in the text. There is no necessity for mentioning the numerous other instances that have been noticed. E. S.

DIGEST OF INSURANCE CASES. Volume IX. For the year ending October 31, 1896. By John A. Finch, of the Indianapolis Bar. Indianapolis and Kansas City: The Bowen-Merrill Co. 1897. pp. lvi, 405.

This Annual Digest contains 835 cases affecting the law of insurance, 135 cases more than that of last year. Nearly half of these involve questions of the construction of terms used in the policy, a fact which indicates, as the compiler points out, a very careless use of language by the companies. The plan of this volume is the same as that adopted in former years, and is admirably simple. There is no elaborate classification of subjects, nor any attempt to give cross references, in the body of the Digest; but the searcher is guided by a very complete Index.

R. G.